



## CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

May 17, 2004

### **H.R. 4200** **National Defense Authorization Act for Fiscal Year 2005**

*As reported by the House Committee on Armed Services  
on May 14, 2004*

#### **SUMMARY**

H.R. 4200 would authorize appropriations totaling \$444 billion for fiscal year 2005 for the military functions of the Department of Defense (DoD), for activities of the Department of Energy (DOE), and for other purposes. In addition, the bill would prescribe personnel strengths for each active-duty and selected reserve component of the U.S. armed forces. CBO estimates that appropriation of the authorized amounts would result in additional outlays of \$439 billion over the 2005-2009 period.

The bill also contains provisions that would both increase and decrease costs of discretionary defense programs over the 2006-2009 period. CBO estimates that those provisions combined would reduce the requirements for discretionary spending by about \$37 billion over those four years, assuming that net appropriations are reduced by the estimated amounts. That net change is dominated by the elimination of a requirement that DoD make annual payments to a government health care trust fund, reducing the need for almost \$13 billion in appropriations for such intragovernmental payments in 2006 and more than \$56 billion over the 2006-2009 period. That change would not result in net governmentwide savings, however, because the corresponding collections of such payments (by the federal trust fund) would decline by the same amount. (The trust fund collections are classified as offsetting receipts; but they are dependent on the appropriations action.)

The bill contains provisions that would both increase and decrease direct spending, primarily from eliminating the statutory limit on the amount DoD can invest in projects to build or renovate military family housing, phasing out reductions in survivor benefit plan annuities, and repealing authority to purchase 80 KC-767 tankers. We estimate that those provisions combined would increase direct spending by \$692 million over the 2005-2009 period but decrease such spending by about \$1 billion over the 2005-2014 period. Those totals include estimated net receipts from asset sales of \$100 million over the 2005-2014 period. (These totals, however, exclude the loss of offsetting receipts for payments into the government

health care trust fund mentioned above, because those collections derive from appropriation actions.)

H.R. 4200 contains both intergovernmental and private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) but CBO estimates that the annual cost of those mandates would not exceed the thresholds established in UMRA (\$60 million in 2004 for intergovernmental mandates and \$120 million in 2004 for private-sector mandates, adjusted annually for inflation).

H.R. 4200 would add new requirements to existing federal aid programs and benefit state and local governments by authorizing aid for certain local schools with dependents of defense personnel and state governments for certain National Guard duties and conveying certain parcels of land.

## **ESTIMATED COST TO THE FEDERAL GOVERNMENT**

The estimated budgetary impact of H.R. 4200 is summarized in Table 1. Most of the costs of this legislation fall within budget function 050 (national defense).

## **BASIS OF ESTIMATE**

### **Spending Subject to Appropriation**

The bill would specifically authorize appropriations totaling \$443.7 billion in 2005 (see Table 2). Most of that funding falls within budget function 050 (national defense). Other funds would be authorized for activities within other budget functions; they include: \$61 million for the Armed Forces Retirement Home (function 600—income security); \$20 million for the Naval Petroleum Reserves (function 270—energy); and \$144 million for the Maritime Administration (function 400—transportation).

Although most of the \$444 billion in funding authorized by the bill would be for full-year costs of routine programs, \$25 billion of that amount would be for DoD costs associated with continuing operations in Iraq and Afghanistan. CBO expects full-year costs of those operations to exceed the level authorized by the bill; the Administration states that it plans to submit a full supplemental request early in 2005.

**TABLE 1. BUDGETARY IMPACT OF H.R. 4200, THE NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2005**

	By Fiscal Year, in Millions of Dollars					
	2004	2005	2006	2007	2008	2009
<b>SPENDING SUBJECT TO APPROPRIATION</b>						
Spending Under Current Law for Defense Programs						
Budget Authority <sup>a</sup>	457,380	0	0	0	0	0
Estimated Outlays	450,354	161,826	48,110	16,053	6,332	2,833
Proposed Changes						
Authorization of Regular Appropriations						
Estimated Authorization Level	0	418,820	0	0	0	0
Estimated Outlays	0	281,616	93,663	26,892	8,749	3,409
Authorization of Appropriations for Contingency Operations <sup>b</sup>						
Estimated Authorization Level	0	25,000	0	0	0	0
Estimated Outlays	0	19,445	4,489	601	222	78
Spending Under H.R. 4200 for Defense Programs						
Estimated Authorization Levels <sup>a</sup>	457,380	443,820	0	0	0	0
Estimated Outlays	450,354	462,887	146,262	43,546	15,303	6,320
<b>CHANGES IN DIRECT SPENDING (EXCLUDING ASSET SALES)</b>						
Estimated Budget Authority	0	-1	1,550	143	-524	-1,082
Estimated Outlays	0	-1	97	462	353	-111
<b>ASSET SALES <sup>c</sup></b>						
Estimated Budget Authority	0	-23	-15	-15	-15	-40
Estimated Outlays	0	-23	-15	-15	-15	-40

NOTE: For 2005-2009, the figures under "Proposed Changes" include amounts specifically authorized by the bill plus an inferred authorization in 2005 for the Coast Guard Reserve based on authorized endstrength levels. The bill also implicitly authorizes programs in 2006 through 2009; those authorizations are not included above (but are shown in Table 3) because funding for those programs would be covered by specific authorizations in future years.

- a. The 2004 level is the amount appropriated for programs authorized by the bill (including \$65,147 million in appropriations in Public Law 108-106, the Emergency Supplemental Appropriations Act for Defense and for the Reconstruction of Iraq and Afghanistan, 2004).
- b. These authorizations are for costs associated with operations in Iraq and in Afghanistan.
- c. Asset sale receipts are a credit against direct spending.

**TABLE 2. SPECIFIED AUTHORIZATIONS IN H.R. 4200**

Category	By Fiscal Year, in Millions of Dollars				
	2005	2006	2007	2008	2009
Authorization of Regular Appropriations					
Department of Defense (DoD)					
Military Personnel					
Authorization Level	104,648	0	0	0	0
Estimated Outlays	102,330	1,481	209	105	0
Operation and Maintenance					
Authorization Level	138,692	0	0	0	0
Estimated Outlays	101,994	29,042	4,443	1,665	706
Procurement					
Authorization Level	77,588	0	0	0	0
Estimated Outlays	24,210	29,290	14,293	5,269	2,057
Research and Development					
Authorization Level	68,128	0	0	0	0
Estimated Outlays	36,303	25,370	4,988	863	229
Military Construction and Family Housing					
Authorization Level	9,930	0	0	0	0
Estimated Outlays	2,429	3,569	2,230	940	435
Revolving and Management					
Authorization Level	2,767	0	0	0	0
Estimated Outlays	1,859	658	146	66	33
General Transfer Authority					
Authorization Level	0	0	0	0	0
Estimated Outlays	735	-159	-315	-159	-51
Subtotal, Department of Defense					
Authorization Level	401,753	0	0	0	0
Estimated Outlays	269,860	89,251	25,994	8,749	3,409
Atomic Energy Defense Activities (DOE)					
Authorization Level	16,722	0	0	0	0
Estimated Outlays	11,480	4,359	882	0	0

(Continued)

**TABLE 2. SPECIFIED AUTHORIZATIONS IN H.R. 4200, CONTINUED**

Category	By Fiscal Year, in Millions of Dollars				
	2005	2006	2007	2008	2009
Other Programs					
Authorization Level	225	0	0	0	0
Estimated Outlays	168	41	16	0	0
Subtotal, Authorization of Regular Appropriations					
Authorization Level	418,700	0	0	0	0
Estimated Outlays	281,508	93,651	26,892	8,749	3,409
Authorization of Appropriations for Contingency Operations					
Military Personnel					
Authorization Level	5,305	0	0	0	0
Estimated Outlays	5,278	0	0	0	0
Operation and Maintenance					
Authorization Level	16,300	0	0	0	0
Estimated Outlays	12,578	3,115	284	156	69
Procurement					
Authorization Level	3,395	0	0	0	0
Estimated Outlays	949	1,654	552	136	44
General Transfer Authority					
Authorization Level	0	0	0	0	0
Estimated Outlays	640	-280	-235	-70	-35
Subtotal, Authorization of Appropriations for Contingency Operations					
Authorization Level	25,000	0	0	0	0
Estimated Outlays	19,445	4,489	601	222	78
Total Specified Authorizations					
Authorization Level <sup>a</sup>	443,700	0	0	0	0
Estimated Outlays	300,953	98,140	27,493	8,971	3,487

NOTE: DOE = Department of Energy.

a. This amount encompasses nearly all of the proposed changes for authorizations of appropriations for 2005 shown in Table 1; it does not include the estimated authorization of \$120 million for the Coast Guard Reserve, which is shown in Table 3.

The estimate assumes that the amounts authorized for 2005 will be appropriated near the start of fiscal year 2005. The estimated outlays from authorizations for routine programs are based on historical spending patterns. Estimated outlays from the \$25 billion authorization for contingency operations reflect a somewhat faster spending pattern since those funds would likely cover costs incurred during the first part of the year.

The bill also contains provisions that would both increase and decrease various costs, mostly for personnel, that would be covered by the fiscal year 2005 authorization and by authorizations in future years. Table 3 contains estimates of those amounts. In addition to the costs covered by the authorizations in the bill for 2005, CBO estimates that these combined provisions would reduce estimated discretionary costs by almost \$37 billion over the 2006-2009 period, assuming that future appropriations to the Department of Defense are reduced to reflect the elimination of the requirement for DoD to make accrual payments to the Uniformed Services Medicare-Eligible Health Care Trust Fund. Note however, that there would not be a governmentwide reduction in spending because that total does not reflect the loss in intragovernmental receipts from DoD accrual payments to the health care trust fund (see the “memorandum” item at the bottom of Table 3).

As discussed further below, the above amounts do not include the costs of sections 613, 614, 618, 619, or 529 because CBO cannot estimate the costs for those provisions at this time. Those sections of the bill pertain primarily to military pay and benefits. The provisions identified in Table 3 are described below, including information about CBO's estimates of costs for those provisions.

**Multiyear Procurement.** In most cases, purchases of weapon systems are authorized annually, and as a result, DoD negotiates a separate contract for each annual purchase. In a small number of cases, the law permits multiyear procurement; that is, it allows DoD to enter into a contract to buy specified annual quantities of a system for up to five years. In those cases, DoD can negotiate lower prices because its commitment to purchase the weapons gives the contractor an incentive to find more economical ways to manufacture the weapon, including cost-saving investments. Annual funding is provided for these multiyear contracts, but potential termination costs are covered by an initial appropriation.

Section 111 would authorize the Secretary of the Navy to enter into a multiyear contract to purchase lightweight 155-millimeter howitzers for the Marine Corps and the Army, beginning in 2005. Based on information provided by the Navy, CBO assumes that the Marine Corps would buy 223 howitzers over the 2005-2007 period and that the Army would purchase another 233 howitzers over the 2005-2008 period. CBO estimates that savings from buying these howitzers under a multiyear contract would total \$163 million (or about \$41 million a year) over the 2005-2008 period. Funding requirements to purchase these howitzers would total \$841 million over the 2005-2008 period (instead of the \$1,004 million that would be needed under annual contracts).

**TABLE 3. ESTIMATED AUTHORIZATIONS OF APPROPRIATIONS FOR SELECTED PROVISIONS IN H.R. 4200<sup>a</sup>**

Category	By Fiscal Year, in Millions of Dollars				
	2005	2006	2007	2008	2009
<b>MULTIYEAR PROCUREMENT</b>					
Lightweight 155-Millimeter Howitzer	-38	-40	-40	-45	0
KC-767 Air Force Tankers	0	238	1,670	2,009	1,989
<b>FORCE STRUCTURE</b>					
Navy and Air Force Active-Duty Endstrength	-430	-879	-903	-930	-958
Reserve Component Endstrengths	35	71	74	77	80
Army and Marine Corps Active-Duty Endstrength	1,073	1,808	3,099	3,830	3,950
Coast Guard Reserve Endstrengths	120	0	0	0	0
<b>COMPENSATION AND BENEFITS (DoD)</b>					
Expiring Bonuses and Allowances	621	551	332	224	172
Income Replacement for Certain Reservists	60	83	45	41	33
Increase in Family Separation and Imminent Danger Pay	306	328	271	265	269
Hazardous Duty Pay for Military Firefighters	8	8	8	8	8
<b>DEFENSE HEALTH PROGRAM</b>					
TRICARE Demonstration Project	29	75	92	23	0
Pre-Activation Health Care Coverage	121	161	160	159	156
Transitional Health Care Coverage	170	282	281	280	278
Federal Employees Health Benefits Program Reimbursements	4	4	3	3	3
Accrual Payments to the Uniformed Services Medicare-Eligible Health Care Trust Fund	0	-12,864	-13,668	-14,522	-15,429
<b>OTHER PROVISIONS</b>					
New Strategic Posture Commission	3	4	4	0	0
Reimbursement for Body Armor	16	0	0	0	0
Public-Private Competitions	7	7	0	0	0
<b>BILL TOTAL</b>					
Estimated Authorization Level <sup>a</sup>	2,105	-10,163	-8,572	-8,578	-9,449
<b>Memorandum:</b>					
Forgone Intragovernmental Collections from DoD Accrual Payments to the Uniformed Services Medicare-Eligible Health Care Trust Fund	0	12,864	13,668	14,522	15,429

NOTES: For every item in this table except the authorization for the Coast Guard Reserve, the 2005 levels are included in Table 2 as amounts specifically authorized to be appropriated in the bill. Amounts shown in this table for 2006 through 2009 are not included in Table 1.

a. These amounts do not include the costs of sections 613, 614, 618, 619, or 529 because CBO cannot estimate such costs at this time. Any such additional costs are likely to be small.

Section 116 would authorize the Secretary of the Air Force to enter into a new multiyear procurement program for 80 KC-767 tankers, but prohibit the use of the authorities provided in section 135 of the National Defense Authorization Act, 2004, and in section 8159 of the Department of Defense Appropriations Act, 2002, in acquiring these aircraft. Since the Air Force would not be permitted to initiate a contract to acquire aircraft in advance of an appropriation to pay the cost of that contract, outlays as a result of the new multiyear procurement authority would be discretionary. (The section would also repeal the contract authority to acquire tankers in advance of appropriations in current law. CBO estimates that enacting this section would reduce direct spending for tanker acquisition currently reflected in CBO's baseline by \$14.3 billion over the 2006-2014 period. CBO's estimate of those outlay savings is discussed under the heading of "Direct Spending.")

Although the Air Force has not provided the Congress with details on how it would procure these tanker aircraft, CBO assumes that the Air Force would begin purchasing the planes after it obtains the first 20 tankers it is authorized to acquire under current law. CBO assumes the Air Force would purchase 11 tankers in 2007, 14 tankers each year over the 2008-2011 period, and 13 tankers in 2012. CBO estimates that the Congress would need to appropriate \$5.9 billion over the 2006-2009 period to buy these tankers under a multiyear contract. Additional appropriations of \$5.5 billion would be needed over the 2010-2012 period to complete the tanker acquisition. (Relative to annual contracts, procuring tankers under multiyear procurement authority would save approximately \$400 million over the 2006-2009 period, and a total of \$800 million over the 2006-2012 period.) Because the Air Force has not submitted plans for multiyear procurement of tanker aircraft, the net costs of such a plan could be substantially different than presented here.

**Military Endstrength.** Title IV of the bill would authorize active and reserve endstrength levels for 2005 and would set the minimum endstrength authorization in permanent law. In addition, sections 1531 and 1532 would increase the active-duty endstrength for the Army and the Marine Corps above those levels provided in title IV for 2005, 2006, and 2007 to support operations in Iraq and Afghanistan.

Under title IV, the authorized endstrengths in 2005 for active-duty personnel and personnel in the selected reserves would total about 1,380,000 and 861,000, respectively. Of those selected reservists, about 72,000 would serve on active duty in support of the reserves.

Section 401 would decrease the Navy's active-duty endstrength by 7,900 and increase the Air Force's active-duty endstrength by 400. CBO estimates that the net decrease in endstrength between the Navy and the Air Force would cut costs for salaries and other expenses for these services by \$430 million in the first year and about \$920 million annually in subsequent years.

Sections 411 and 412 would authorize the endstrengths for the reserve components, including those who serve on active duty in support of the reserves. Under this bill, the Selected Reserve would experience a drop in endstrength numbers of 2,430, mostly in the Naval Reserve, while the endstrength for reservists who serve on active duty in support of the reserves would increase by 1,515. CBO estimates that the net result of implementing these provisions would result in an increase in costs for salaries and other expenses for reservists of \$35 million in 2005 and about \$75 million annually in subsequent years, compared to the authorized endstrength levels for 2004.

As mentioned above, sections 1531 and 1532 would increase the active-duty endstrength for the Army and the Marine Corps above those levels provided in title IV for 2005, 2006, and 2007 to support operations in Iraq and Afghanistan. Section 1531 would specifically increase the Army's active-duty endstrength above the level authorized for 2005 in title IV by increments of 10,000 personnel each year for 2005, 2006, and 2007 to achieve an active-duty endstrength of 512,400 for 2007. Similarly, section 1532 would increase the Marine Corps' active-duty endstrength above the level authorized for 2005 in title IV by increments of 3,000 personnel each year for 2005, 2006, and 2007 to achieve an active-duty endstrength of 184,000 for 2007. Assuming that the Army and Marine Corps' endstrength remains at the 2007 level through 2009, CBO estimates that implementing these sections would cost almost \$1.1 billion in 2005 and about \$3.2 billion annually in subsequent years, when compared to the authorized endstrength levels for 2004.

The bill would specifically authorize appropriations of \$104.6 billion for the discretionary costs of military pay and allowances in 2005.

The bill would also authorize an endstrength of 10,000 servicemembers in 2005 for the Coast Guard Reserve. This authorization would cost about \$120 million and would fall under budget function 400 (transportation).

**Compensation and Benefits.** H.R. 4200 contains several provisions that would affect military compensation and benefits for uniformed personnel.

*Military Pay Raises.* Section 601 would raise basic pay for all individuals in the uniformed services by 3.5 percent. CBO estimates that implementing this provision would cost about \$1.9 billion in 2005. Because this pay raise percentage is the amount provided under current law, there is no incremental cost for this section.

*Expiring Bonuses and Allowances.* Section 611 would extend DoD's authority to pay certain bonuses and allowances to military personnel. Under current law, most of these authorities are scheduled to expire in December 2004, or three months into fiscal year 2005. The bill

would extend these authorities for another year. Based on data provided by DoD, CBO estimates that the costs of these extensions would be as follows:

- Authorities to make special payments and give bonuses to certain health care professionals would cost \$32 million in 2005 and \$26 million in 2006;
- Special payments for aviators and nuclear-qualified personnel would cost \$89 million in 2005 and \$95 million in 2006;
- Retention and accession bonuses for officers and enlisted members with critical skills would cost \$13 million in 2005 and \$15 million in 2006;
- Payment of reenlistment bonuses for active-duty and reserve personnel would cost \$351 million in 2005 and \$211 million in 2006; and
- Enlistment bonuses for active-duty and reserve personnel would cost \$136 million in 2005 and \$204 million in 2006.

Most of these changes would result in additional, smaller costs in subsequent years because most payments are made in installments.

Section 615 would make reservists eligible for the enlistment and reenlistment bonuses now available to active-duty personnel and would repeal authority for various smaller enlistment and reenlistment bonuses that were provided just for reservists. Similarly, section 617 would make reservists eligible for the critical skills retention bonus now available to active-duty personnel and would repeal authority for various smaller critical skills retention bonuses that were established just for reservists. Absent information from DoD regarding the expected implementation of these new authorities, CBO expects that this change could result in some reservists receiving larger bonuses than those given in the past. Given that DoD would need time to implement this new authority, however, CBO assumes that DoD would continue to award these bonuses to reservists at the same levels in 2005 that it has in the past and included those costs in the above estimates for those bonuses. (In contrast, it is possible that DoD might fully implement this new bonus policy in 2005. If that were the case, the bill would specifically limit any additional costs for the new enlistment and reenlistment bonuses given in 2005 to \$20 million and any additional costs for the new critical-skill bonuses given to reservists in 2005 to \$10 million.)

*Income Replacement Payments for Certain Reservists.* Section 605 would require DoD to pay at least some of the difference between military and civilian pay for certain reservists while they are on active duty under an involuntary mobilization order. Under the bill, the pay

difference must be greater than \$50 a month but less than \$3,000 a month. This pay supplemental would only become effective after a reservist had been activated for 12 continuous months, 18 months during the previous 60-month period, or for any time within six months of full-time active-duty service. Under the bill, these payments would not begin until January 2005.

Recent surveys of reservists by DoD and the General Accounting Office (GAO) provide some data about the income difference for mobilized reservists. In these surveys, 60 to 70 percent of respondents reported either no difference or an increase in their income while on active-duty military status. For this estimate, CBO assumes that these self-reported survey data are accurate and applicable to the current call-up of reserve forces. Based on the reported information, CBO estimates that the average annual reduction in salary for reservists while serving in the active-duty military is about \$3,000.

The cost of implementing this provision would depend on the size of the future mobilized reserve force, which in turn depends on the duration of the military operation in Iraq and the force required for it, as well as the size and duration of any future military conflicts and other commitments, all of which are uncertain. For this estimate, CBO assumes that in fiscal year 2005 about 20,000 mobilized reservists would be eligible and qualify for the pay differential. This number would eventually decrease to approximately 11,000 by 2009. If the number of reservists called to active duty were to remain at current levels over the 2005-2009 period, the cost of implementing this provision would be significantly higher.

Based on the projected number of reservists eligible for income replacement payments and the size of the average income lost, CBO estimates that the cost of implementing this section would total \$60 million in 2005 and \$262 million over the 2005-2009 period, assuming the appropriation of the necessary amounts.

*Extending Increases in Family Separation Allowance and Imminent Danger Pay.* Section 1533 would permanently extend the current rates for the family separation allowance and imminent danger pay, which are \$250 per month and \$225 per month, respectively. Under current law, these benefits will revert to the previous amounts of \$100 and \$150, respectively, after December 31, 2004. Based on information from DoD about the number of servicemembers currently receiving these benefits and CBO assumptions concerning how many might be eligible for these allowances, CBO estimates that implementing this section would cost \$306 million in 2005 and \$1.4 billion over the 2005-2009 period.

*Hazardous Duty Pay for Military Firefighters.* Section 620 would add military firefighters to the list of personnel eligible for hazardous duty incentive pay. This monthly pay of \$150 is given to those with particularly dangerous occupations or duties. Based on data provided by

DoD on the number of personnel who perform firefighting duties, CBO estimates that the cost for implementing this section would be about \$8 million annually.

*Other Provisions.* These are a number of provisions in the bill dealing with personnel matters for which CBO cannot estimate costs at this time because DoD cannot provide information about how the department would implement these provisions. The provisions are:

- Section 613 would allow DoD to increase the maximum amount of the hardship duty pay. DoD has indicated it is unlikely to use this authority if the current monthly amounts for the family separation allowance and imminent danger pay are extended.
- Section 614 would give DoD the authority to terminate assignment incentive pay for servicemembers who take terminal leave. While DoD has no data regarding the number of people who might be affected by this provision, it expects savings to be small because most servicemembers do not choose an overseas assignment as their last post before retiring.
- Section 618 would make reservists eligible for the critical skills accession bonus and section 619 would make reservists eligible for a bonus given to those who change into a career field that is experiencing a shortage. According to DoD, it has not had time to determine how it would use these new authorities. However, in both cases, the bill would place a limit on how much DoD could obligate for these new bonuses in 2005—\$5 million for the critical-skills bonus and \$3 million for the lateral-move bonus.

**Defense Health Program.** Title VII contains a number of provisions that would affect DoD health care and benefits. Three sections would specifically provide health care benefits for reservists. Using information from DoD, CBO estimates there are about 1.1 million reservists in the Ready Reserve and about 50 percent of those reservists have dependents. Based on data from DoD, CBO also estimates that the annual cost of providing health care to reservists in 2005 would be about \$2,200 for single reservists and \$7,700 for reservists with dependents.

*TRICARE Demonstration Project.* Section 701 would require DoD to conduct a demonstration project through December 31, 2007, which would give certain reservists the ability to enroll in TRICARE, DoD's general health care program, even if they have not been called to active duty. Under current law, reservists and their families can only participate in TRICARE while the reservist is called to active duty with one exception. Current law, which expires on December 31, 2004, allows reservists who are unemployed or without employer-

sponsored health insurance to enroll in TRICARE provided the reservist pays a premium equal to 28 percent of DoD's expected costs for this benefit. As of the date of this estimate, DoD has not implemented the law allowing such enrollment.

Under section 701, DoD would be required to conduct the demonstration project at a minimum of 10 sites and allow members of the Ready Reserve without employer-sponsored insurance and self-employed reservists who make less than \$40,000 a year to enroll in TRICARE by paying a premium equal to 28 percent of DoD's expected costs. Based on information from DoD, CBO estimates that a demonstration project consisting of 10 sites could cover as many as 160,000 reservists, or about 15 percent of the total number of reservists in the Ready Reserve. Using information from the GAO about the percentage of reservists without health care insurance, CBO estimates that about 12,000 of these reservists would enroll in the TRICARE program under this demonstration project in 2005. Based on data from DoD, CBO estimates that in 2005 the average cost to DoD for those reservists who purchase self-only coverage would be about \$1,600 while the average cost to DoD of self-and-family coverage would be about \$5,500. In addition to these amounts, enrolled reservists would pay about \$600 for self-only coverage and \$2,200 for self-and-family coverage. Assuming that enrollment would double in 2006 before leveling off at about 24,000 reservists, CBO estimates that implementing this provision would cost \$29 million in 2005 and \$219 million over the 2005-2008 period, assuming appropriation of the estimated amounts.

*Pre-Activation Health Care Coverage.* Section 703 would permanently extend a requirement, which expires on December 31, 2004, that DoD provide health care coverage to reservists, and their families, prior to a reservist reporting to active duty. Under section 703, reservists would be eligible to receive health care from the time the reservist is notified about activation to the time the reservist reports for active duty up to a maximum of 90 days. Based on information from DoD, CBO estimates that in 2005 this provision would affect about 430,000 reservists called to active duty and that these reservists would be eligible for about two months of health care coverage given DoD's current practice of issuing orders to active duty with less than 90 days notification. CBO estimates that about 50 percent of single reservists and 40 percent of reservists with dependents would use TRICARE during this two-month period at an estimated monthly cost of \$180 for singles and \$640 for families. In addition, CBO expects that many of the remaining reservists would likely use TRICARE as a second-payer to supplement their existing health care coverage at a cost of \$100 a month. Taken together, CBO estimates that implementing section 703 would cost \$121 million in 2005, and \$757 million over the 2005-2009 period, assuming appropriation of the estimated amounts.

*Transitional Health Care Coverage.* Section 706 would permanently extend an existing requirement that DoD provide health care for up to 180 days after separation to all members of the military who are involuntarily separated from active duty and would limit the amount of money DoD could spend on transitional health care to \$170 million in 2005. Under current law, the requirement to provide 180 days of coverage will expire on December 31, 2004. After that date, a member who is involuntarily separated from the military would be eligible for either 60 or 120 days of health care coverage depending on the number of years that member served in the military. Based on information from DoD, CBO estimates that this provision would apply to about 430,000 reservists and about 45,000 other servicemembers who would be separated from active duty in 2005. According to DoD, about 85 percent would be eligible for four additional months of coverage with the remaining 15 percent eligible for two additional months of health care coverage.

As with the health care coverage provided prior to activation, CBO estimates that about 50 percent of single reservists and 40 percent of reservists with dependents would use TRICARE at an estimated monthly cost of \$180 for singles and \$640 for families. Under section 706, however, reservists would not be able to use TRICARE as a second-payer to supplement their private insurance. Accordingly, CBO estimates that implementing this section would cost about \$170 million in 2005 and about \$1.3 billion over the 2005-2009 period, assuming appropriation of the estimated amounts.

*Federal Employees Health Benefits Program.* Section 1101 would allow agencies to pay both the employee's share and the agency share of the insurance premium paid under the Federal Employee Health Benefits program for up to 24 months, if the employee is involuntarily called to active duty for a contingency operation. This authority would apply to federal employees who have been called to active duty on or after September 14, 2001. Under current law, agencies can only pay those premiums for reservists on active duty for a maximum of 18 months. Based on information from DoD, CBO estimates that this authority would affect about 750 reservists working for the federal government at an estimated cost of \$10,300 per reservist in 2005. After assuming that half of those reservists are affected each year and accounting for projections of reservist mobilizations over the 2005-2009 period, CBO estimates that this provision would cost about \$4 million in 2005 and \$17 million over the 2005-2009 period, assuming appropriation of the estimated amounts.

*Accrual Payments to the Uniformed Services Medicare-Eligible Health Care Trust Fund.* Section 1541 would eliminate the current requirement for DoD and the other uniformed services to make monthly accrual payments into the Uniformed Services Medicare-Eligible Health Care Trust Fund beginning with fiscal year 2006 and require the Treasury to make those payments instead. Under current law, the fund receives monthly payments from DoD,

annual amortization payments by the Treasury, and interest earned on the fund's current balances. The amount that DoD must pay comes from appropriated funds and is determined by the Secretary of Defense, who must use methods and assumptions approved by an independent board of actuaries to calculate the payment amount or rate. Under section 1541, the payment calculation would be the same, but Treasury would be responsible for making the payment instead of DoD. Eliminating DoD's requirement to make these payments would lower the need for discretionary appropriations because DoD would no longer be required to make the accrual payments.

Under current law, CBO estimates that the accrual payments would be almost \$13 billion in 2006 and more than \$56 billion over the 2006-2009 period. Assuming appropriations are reduced by those amounts, CBO estimates that implementing section 1541 would result in no net increase in outlays because accrual payments are intergovernmental transactions, or payments from one governmental account to another. That is, the amounts paid out of appropriations result in corresponding collections, called offsetting receipts, recorded elsewhere in the budget. Under the proposal, discretionary spending by DoD and the other uniformed services would decline—again, assuming that total appropriations are reduced accordingly—but the intragovernmental offsetting receipts generated by those accrual payments would also decline by equal amounts. (See the memorandum item at the bottom of Table 3.) However, if future appropriations are not reduced by the estimated amounts, total federal outlays would increase because the amounts that would have been spent on accrual payments would now be available to spend on personnel, procurement, or operations that translate into an increase in net outlays.

The budgetary treatment of the accrual payments and their corresponding offsetting receipts is complicated by the fact that the payments currently come from appropriated funds—that is, a form of discretionary spending; while the offsetting receipts are classified in the budget as mandatory—that is, as a form of direct spending. In most cases, a change in direct spending that results from an authorization bill is charged to the committee that reports that bill. But in this case, the offsetting receipts (for the collection of those accrual payments) are effectively controlled, or triggered, by appropriation action. Thus, for this estimate CBO shows the expected reduction in offsetting receipts as a memorandum to the changes in spending subject to appropriation in Table 3. Those changes reflect actions relative to current law—whereby both the payments and intragovernmental collections are subject to appropriation action. We note, however, that the loss of offsetting receipts would represent a cost relative to baseline projections, which assume the payments continue.

**New Strategic Posture Commission.** Section 1074 would establish a commission that would review the long-term implementation of the Nuclear Posture Review provided to the Congress in 2001 and report its findings and conclusions in about three years. The

commission would consist of 12 members from the private sector familiar with the operational and technical aspects of nuclear strategy and be appointed by the Secretary of Defense. Section 1074 also would allow the Department of Defense to enter into a contract with a federally-funded research and development center to provide support to the commission. CBO estimates that the costs for this commission would total \$3 million in 2005 and \$11 million over the 2005-2007 period.

**Reimbursement for Body Armor.** Section 304 would allow the Secretary of Defense to reimburse troops serving in Iraq or the Global War on Terrorism for the cost of body armor purchased with personal funds between September 11, 2001, and December 31, 2003. Based on information from manufacturers and distributors of body armor, as well as an analysis of the number of troops serving in the central command theater of operations during the specified time period, CBO estimates as many as 10,000 personnel purchased their own bullet-proof vests at an average cost of about \$900 each. In addition, as many as 20,000 purchased protection plates and other accessories at an average cost of about \$350 each. Thus, CBO estimates the total cost of this section would be about \$16 million in 2005.

**Public-Private Competition.** Section 324 would create a pilot program to extend workforce review studies to new requirements and to work currently outsourced to the private sector. Under the first part of the program, government employees would be allowed to compete for 10 percent of new work requirements within DoD. Under the second part of the program, one job currently being performed by the private sector would be subject to competition by government employees for every 10 government civilian jobs scheduled for public-private competition. Based on data from DoD and GAO, CBO estimates this pilot program would subject about 2,700 positions to public-private competitions that probably would not otherwise have occurred. CBO estimates the cost to undertake the relevant studies and conduct the competitions would be about \$5,000 per position, or about \$14 million over the 2005-2006 period.

CBO estimates no significant savings as a result of these reviews. Although some evidence suggests that subjecting contractors to competition could reduce costs in some instances, most estimated savings from workforce reviews result from reductions of government personnel and overhead. Moreover, it is uncertain to what extent government organizations could organize themselves to formally compete for work currently performed by the private sector.

**Reimbursement of National Guard for Operations Performed Under Direction of State Governors.** Section 529 would make certain operations performed by the National Guard under the direction of a governor eligible for reimbursement by the federal government. Under this section, the operations would have to have a national interest and funding

assistance could be used for pay and other personnel-related expenses, operation and maintenance of equipment and facilities, and the procurement of equipment. CBO cannot estimate the cost of this provision, though it could be substantial, because DoD does not know what funding requests might be made and what discretion it would use to make payments.

## **Direct Spending**

The bill contains provisions that would both increase and decrease direct spending, primarily from eliminating the statutory limit on the amount DoD can invest in projects to build or renovate military family housing, phasing out reductions in survivor benefit plan annuities, and modifying authority to purchase 80 KC-767 tankers. We estimate that those provisions combined would increase direct spending (excluding asset sales ) by about \$800 million over the 2005-2009 period but decrease such spending by \$971 million over the 2005-2014 period (see Table 4).

**Military Housing Privatization Initiative (MHPI).** Section 2806 would eliminate the statutory limit on the amount that DoD can invest in projects to build or renovate military family housing. This section would take effect on October 1, 2005. Currently, DoD is authorized to use direct loans, loan guarantees, long-term outleases, rental guarantees, barter, direct government investment, and other financial arrangements to renovate, build, and operate military housing in concert with residential housing developers. Funding for those activities comes from the Family Housing Improvement Fund, which is financed by appropriations made to the fund, transfers from other accounts, receipts from property sales and rents, returns on any capital, and other income from operations or transactions connected with the program.

Currently the amounts in the fund are available for use by DoD to acquire housing using the various techniques mentioned above, but the total value of commitments for all contracts and investments undertaken is limited to \$1 billion (\$850 million for family housing and \$150 million for unaccompanied housing). Under the bill, the limit for family housing would be eliminated at the start of fiscal year 2006. CBO estimates that enacting section 2806 would increase direct spending by \$365 million in 2006, \$4.9 billion over the 2006-2009 period, and \$6.6 billion over the 2006-2014 period.

**TABLE 4. ESTIMATED DIRECT SPENDING FROM MILITARY HOUSING PRIVATIZATION AUTHORITIES AND OTHER PROVISIONS OF H.R. 4200, (By fiscal year, in millions of dollars)**

	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
<b>CHANGES IN DIRECT SPENDING (EXCLUDING ASSET SALES)</b>										
Military Housing Privatization Initiative										
Estimated Budget Authority	0	3,146	1,763	1,096	457	192	0	0	0	0
Estimated Outlays	0	365	1,468	1,736	1,315	865	481	229	85	31
Survivor Benefit Plan Increase										
Estimated Budget Authority	-1	214	443	711	856	888	919	949	978	1,008
Estimated Outlays	-1	214	443	711	856	888	919	949	978	1,008
Survivor Benefit Plan Open Window										
Estimated Budget Authority	0	-15	-44	-68	-61	-35	-21	-7	8	22
Estimated Outlays	0	-15	-44	-68	-61	-35	-21	-7	8	22
KC-767 Tanker Acquisition										
Estimated Budget Authority	0	-1,794	-2,018	-2,262	-2,333	-2,219	-2,285	-1,373	0	0
Estimated Outlays	0	-466	-1,404	-2,025	-2,220	-2,286	-2,265	-2,031	-1,244	-343
Disability Retirement for Military Academy Students										
Estimated Budget Authority	*	*	*	*	*	*	1	1	1	1
Estimated Outlays	*	*	*	*	*	*	1	1	1	1
Early Separation of Mobilized Reservists										
Estimated Budget Authority	-1	-1	-1	-1	-1	-1	-1	-1	-1	-2
Estimated Outlays	-1	-1	-1	-1	-1	-1	-1	-1	-1	-2
Subtotal										
Estimated Budget Authority	-1	1,550	143	-524	-1,082	-1,175	-1,387	-431	986	1,029
Estimated Outlays	-1	97	462	353	-111	-569	-886	-860	-173	717
<b>ASSET SALES<sup>a</sup></b>										
National Defense Stockpile - Increase										
Quantity Restrictions on Manganese Ferro Alloy Sales										
Estimated Budget Authority	-8	0	0	0	0	0	0	8	0	0
Estimated Outlays	-8	0	0	0	0	0	0	8	0	0
National Defense Stockpile - Increase Sales										
Targets from Earlier Authority										
Estimated Budget Authority	-15	-15	-15	-15	-40	0	0	0	0	0
Estimated Outlays	-15	-15	-15	-15	-40	0	0	0	0	0
<b>TOTAL CHANGES IN DIRECT SPENDING</b>										
Estimated Budget Authority	-24	1,535	128	-539	-1,122	-1,175	-1,387	-423	986	1,029
Estimated Outlays	-24	82	447	338	-151	-569	-886	-852	-173	717
<b>Memorandum:</b>										
KC-767 Tanker Multiyear Procurement										
Estimated Authorization Level	0	238	1,670	2,009	1,989	1,982	1,962	1,574	0	0
Estimated Outlays	0	63	551	1,338	1,774	1,924	1,958	1,854	1,259	470

NOTE: \* = less than \$500,000.

a. The 10-year costs in the text differ slightly from the sum of the annual costs shown here because of rounding.

*Funding Governmental Activities.* DoD has traditionally acquired housing for military personnel by contracting with housing developers or construction firms to build housing units on or near military installations, paying the builders as they performed and completed construction. The U.S. Treasury makes those payments using cash from tax revenues, receipts from the sale of Treasury securities, and fees paid to the federal government.

Using the alternative authorities to acquire or improve military housing provided in title 10, United States Code, sections 2871-2885, the department also acquires housing in a more complicated—and ultimately more expensive—manner. Although each family housing project DoD accomplishes using the MHPI authority has unique aspects, they have many contractual elements in common. DoD enters into a series of long-term agreements with a residential housing developer who establishes a limited liability company (LLC) or other special-purpose entity, specifically for the purpose of renovating, constructing, operating, and maintaining the military family housing at the project. DoD contributes some combination of land, existing housing, and cash to the partnership or LLC. On behalf of the government, the LLC then borrows additional money for the project from a third party, such as a commercial mortgage corporation, to finance construction. In other words, the third-party financier acts as an intermediary by borrowing money—in place of the U.S. Treasury—to finance a governmental activity. The value of the assets contributed by the government serve as collateral for the borrowing and the future rent payments from military personnel who will occupy the housing provide a reliable source of income for debt service. Because the third party financier faces higher interest rates than Treasury, this form of financing is more expensive than direct federal funding. (However, because the agreements provide for the long-term maintenance and renovation of the project’s housing, the condition of MHPI housing is generally superior to that of housing acquired using traditional methods.)

With MHPI, DoD has been able to improve or replace housing faster than it would have been able to do using the traditional military construction appropriations process, however, this success is primarily due to the favorable budgetary treatment afforded to DoD’s use of these alternative authorities by the Office of Management and Budget (OMB). OMB treats each element of the public/private venture separately, recording the subsidy costs of direct loans and loan guarantees (as defined by the Federal Credit Reform Act of 1990), and treating equity contributions to a partnership as cash. By scoring each transaction in that piecemeal fashion, to date, DoD has been able to acquire approximately \$6 billion in housing while recording the use of only \$540 million in budget authority in the Family Housing Improvement Fund. In effect, the Administration’s accounting enables DoD to record the costs of the projects incrementally over time rather than up front. As we have stated in past years, CBO continues to believe that OMB’s accounting practices for MHPI projects are at odds with governmentwide standards.

CBO believes most MHPI projects are governmental activities—in this case the acquisition, construction, or renovation and operation of a government asset, specifically, family housing for military personnel—financed by a private-sector intermediary who acts as an instrument of the government. In CBO’s view, most ventures that borrow funds to construct or refurbish military family housing should be treated as governmental and their investments should be recorded up front, as borrowing authority—a form of budget authority. Amounts expended by these public-private ventures should be recorded in the budget as outlays at the time they occur.

CBO believes these arrangements should be treated as governmental for two principal reasons: the government exercises substantial control over the project and the government is the dominant or only source of project income. The government exercises significant control over the projects through various means, such as:

- Acquiring a partnership stake in a housing public-private venture, with the power to remove or replace the other partner,
- Controlling the project cash flows through a lockbox agreement—a type of escrow account,
- Approving the developer’s construction plans and the property manager’s annual operating budgets,
- Retaining control over conveyed government property through ground leases and reversionary rights,
- Approving the terms of the tenant rental agreement,
- Controlling access to housing that is on a military installation,
- Requiring the developer to perform future renovations and improvements at contractually specified dates,
- Prohibiting the use of property as collateral for other debt without government approval, and
- Approving the sale to another party of the private-sector partner’s interest in the project and requiring any successor owner to be bound by the terms of the contract with the original developer.

The government, which will consume most or all of the useful economic life of the project, is also the dominant or only source of project income and provides that income in several ways by:

- Contributing land and housing to the developer at no cost,
- Providing cash contributions and direct loans,
- Providing loan guarantees in the event of base realignment or closure,
- Requiring military tenants to pay rent through paycheck allotment, and
- Reserving the housing units for military families. As a result, most project income comes from funds appropriated for military personnel pay.

In sum, because MHPI projects are governmental activities, CBO believes that the borrowing and spending for the projects should be recorded in the budget as government borrowing and spending.

*Cost of Activities Under Current Law.* To date, DoD has awarded contracts for 29 family housing projects for a total of 55,000 housing units, and is proceeding with solicitations for or considering plans for more than 60 other projects over the next few years. Using OMB's accounting method, DoD has only recorded obligations of about \$550 million—below the current \$850 million limit. However, CBO estimates that the full amount of DoD's commitments to date is almost \$6 billion. Given DoD's plans for future projects, it estimates that it could reach the \$850 million limit as early as the end of 2004. Using the current method of accounting for only the initial investment costs of these projects, DoD could acquire or modify approximately 30,000 to 40,000 more units and record only \$300 million in obligations. CBO estimates that the true cost of these additional projects, which could be awarded under the current investment cap, would total approximately \$3 billion. Since DoD can pursue these projects without additional legislative authority, their costs are not counted against this bill.

*Cost of Eliminating the Cap.* Section 2806 would eliminate the cap on total investment in family housing projects, allowing DoD to pursue additional MHPI projects after it exhausts the authority in current law. Currently, DoD has plans to privatize about 162,000 housing units out of a total inventory of approximately 225,000 housing units, and CBO believes that DoD will be able to privatize additional units in excess of those identified in its current plans—as many as 185,000 units in total. (DoD cannot privatize every housing unit in its inventory because the department needs to retain ownership of some units for military reasons and because the department will be unable to structure financially viable projects at every location.) Based on DoD's actions to date under this authority, CBO does not believe that DoD will use these authorities to significantly increase its inventory of military family

housing, and estimates that eliminating the investment cap will permit DoD to renovate or rebuild as many as 80,000 more housing units than it could obtain under current law.

Given OMB's accounting practice of recording only the initial investment, CBO assumes that DoD would be allowed to finance much more housing construction than it records in obligations. CBO believes that DoD will exhaust its authority for MHPI under the investment cap at some point in 2005. Because this section would not eliminate the investment cap until October 1, 2005, DoD may have to delay until 2006, some projects currently planned for 2005. However, DoD has several projects tentatively scheduled for award in 2005 and 2006 that would be scored at no cost under OMB's accounting practices. In this estimate, CBO assumes that DoD would be able to award contracts for some of those projects in 2005, before the investment cap is effectively lifted, because the department would not record any additional obligations against the investment cap. CBO estimates that DoD will finish awarding military housing privatization projects by 2010. Thus, CBO estimates that this additional construction activity would have no cost in 2005, but would increase outlays by \$365 million in 2006 and by \$6.6 billion over the 2006-2014 period.

**KC-767 Tanker Acquisition.** Section 116 would modify the Air Force's authority to acquire 100 KC-767 tankers through a hybrid acquisition strategy to "lease" no more than 20 tanker aircraft and purchase as many as 80 additional aircraft under multiyear procurement authority, by repealing subsection (b) of section 135 of the National Defense Authorization Act, 2004, which authorized the purchase of those 80 additional tankers and by prohibiting the use of the authorities provided in section 135 of the National Defense Authorization Act, 2004, and in section 8159 of the Department of Defense Appropriations Act, 2002. CBO estimates that repealing this authority would reduce direct spending, relative to CBO's current baseline projections, by \$466 million in 2006, \$6.1 billion over the 2006-2009 period, and \$14.3 billion over the 2006-2014 period.

In scoring the authority provided in the National Defense Authorization Act, 2004, CBO assumed that the Air Force would sign a contract similar to the one it negotiated with Boeing in May 2003 to acquire all 100 tankers. Under such a contract, the Air Force would "lease" the first 20 tankers and purchase the last 80 tankers using the special-purpose entity (SPE) that was established to facilitate the tanker lease proposal presented in July of 2003. (CBO believes the proposed transaction for the first 20 aircraft would not qualify as an operating lease, but rather a purchase of the tankers by the federal government. See Congressional Budget Office letter to Honorable John W. Warner dated October 16, 2003, regarding *Alternative Strategies for Acquiring 100 Boeing KC-767 Tanker Aircraft* for more information on CBO's views and estimates of the Air Force's plans to acquire tanker aircraft.) Under such a scenario, the special-purpose entity would make payments to Boeing as it builds the aircraft, then buy the tankers from Boeing once they were built. The SPE

would lease the first 20 tankers to the Air Force using the financing arrangement developed for the lease of 100 tankers and sell the last 80 tankers to Air Force at the time of delivery at the prices specified in the negotiated contract. Because subsection (b) of section 135 authorized the Air Force to initiate a contract without regard to whether sufficient funds were available to pay the full costs of that contract, CBO believed the Air Force would request budget authority in the year it intended to make the necessary payments, even though the tankers had been ordered—and the government obligation established—several years earlier.

Thus, under current law, if the Air Force signed a contract to acquire all 100 tankers, the Air Force would obligate the government—in advance of the appropriations necessary to make lease and purchase payments required under the contract—increasing direct spending by \$18.3 billion over the 2004-2014 period. Because DoD has not yet announced whether it will permit the Air Force to purchase tankers under the current authority, CBO continues to assume the Air Force will use the authority provided in current law to do so in its current baseline. By revoking the authority to acquire 80 of those tankers in this manner, section 116 would reduce direct spending by \$14.3 billion over the 2006-2014 period, relative to that baseline.

At this time, it is unclear when DoD will decide to proceed with the previously authorized tanker acquisition plan or whether it will consider alternative approaches to tanker acquisition. Should the department decide to forgo acquisition under its previously announced acquisition strategy (i.e., using an SPE for third-party financing of the acquisition from Boeing) before this bill is enacted, CBO would update its estimate to reflect such an action by the Administration. In that case, no savings would arise from terminating the authority in current law.

Section 116 also would authorize a new multiyear procurement program for 80 tankers, and prohibit the use of the authorities provided in section 135 of the National Defense Authorization Act, 2004, and in section 8159 of the Department of Defense Appropriations Act, 2002, to do so—effectively replacing the prior authority, which we viewed as direct spending, with a new authorization of appropriations for KC-767 tankers. Since the Air Force would not be permitted to initiate a contract to acquire aircraft in advance of an appropriation to pay the cost of that contract, outlays as a result of the new multiyear procurement authority would be discretionary. (See the “Multiyear Procurement” discussion above—under the section “Spending Subject to Appropriation”—for CBO’s estimate of potential savings for acquiring tankers under a multiyear contract.)

**Survivor Benefit Plan (SBP) Benefits.** Under current law, survivors of members of the uniformed services are eligible for a survivor annuity if the member died on active duty or, upon retirement, enrolled in the SBP and made monthly premium payments. The uniformed

services include all branches of the U.S. military, the Coast Guard, and uniformed members of the Public Health Service (PHS) and the National Oceanic and Atmospheric Administration (NOAA). Under current law, the survivor benefit amount is 55 percent of a base amount chosen by the member, which can not exceed the member's full retirement annuity. When the survivor becomes eligible for Social Security survivors' benefits at age 62, the SBP benefit is reduced to 35 percent of the member's annuity, or, for those under an older version of SBP, the annuity is reduced by the amount of the Social Security payment, up to a maximum of 40 percent of the survivor's annuity. Retirees can choose to offset the reduction in survivor benefits at age 62 by enrolling in a supplemental program. For additional premium payments, a retiree can provide his or her survivor aged 62 or older with an annuity of 40, 45, 50, or 55 percent of the member's retirement annuity.

Section 641 would phase out the reduction in the SBP annuity over a period of three and one-half years, as well as the supplemental program that offsets it. Section 642 would offer retirees who had chosen not to participate in the SBP a two-year open window to enroll. Section 643 would transfer the obligation to finance this increase in benefits through payments to the Military Retirement Fund from DoD to the Treasury. Together, CBO estimates that enacting these provisions would increase direct spending by \$2 billion over the 2005-2009 period and \$6.7 billion over the 2005-2014 period.

*Survivor Benefit Plan Increase.* Under section 641, the percentages of the base amount used in the calculation of SBP annuities would be no less than:

- 35 percent for months before October 2005,
- 40 percent for the period from October 2005 through March 2006,
- 45 percent for the period from April 2006 through March 2007, and
- 50 percent for the period from April 2007 through March 2008.

As of April 2008, all survivors would receive an annuity amounting to 55 percent of the chosen base amount.

DoD reports that, as of September 2003, the benefits of over 222,000 survivors were reduced by an average of \$255 a month. Based on data from the other uniformed services, CBO estimates that about 4,000 survivors of retirees or members of the Coast Guard, NOAA, and PHS had their SBP annuities reduced by a similar amount. Using current rates of net growth in the population of beneficiaries, CBO estimates this caseload will rise to about 234,000 survivors in 2005 and 290,000 survivors by 2014. CBO also assumes that future SBP payments will increase consistent with growth in members' pay and from cost-of-living adjustments. In addition, about 10,000 retirees pay additional premiums of about \$165 a month, to purchase a supplemental benefit that will reduce or offset the current reduction at

age 62. This supplemental program will be phased out in step with the annuity improvements. CBO estimates the increased SBP payments and the gradual elimination of supplemental premiums would total \$2.3 billion over the 2005-2009 period and \$7.4 billion over the 2005-2014 period.

CBO also assumes this change to the SBP will increase the rate at which new retirees enroll in the program. CBO estimates an additional 6,000 retirees would enroll in SBP each year and begin paying annual premiums of about \$1,100. Since military members usually retire in their early 40s, they can be expected to pay premiums for many years before they leave survivors to create new costs to the Military Retirement Fund. CBO estimates that, net of any resulting survivor benefits, these new retirees will contribute premiums of about \$100 million over the 2005-2009 period and \$450 million over the 2005-2014 period. In total, CBO estimates enacting section 641 would increase direct spending for the Survivor Benefit Plan by a net of \$2.2 billion over the 2005-2009 period and almost \$7 billion over the 2005-2014 period.

*Survivor Benefit Plan Open Window.* Under current law, servicemembers have an opportunity to enroll in SBP at the time of their retirement from the uniformed services or their transfer to the retired reserves. Reservists have a second opportunity to enroll in the program when they become eligible to receive retired pay at age 60. Section 642 would allow retired servicemembers who are not participating in SBP a two-year window, beginning October 1, 2005, to enroll in the plan. Those who enroll as a result of the open window would pay the current premium rate plus an additional premium of up to 4.5 percent of the base amount. Under this section, should such a retiree die during the two years after enrollment, all premium payments would be refunded to his or her survivor. Section 642 also would allow current participants to increase the base amount they had previously designated, if it was less than their full retirement annuity. Since the bill increases the annuity of most survivors by almost 60 percent, CBO expects few current retirees would further reduce their retirement annuities to provide a larger survivor benefit.

Based on an analysis of current and past benefit amounts and participation rates and on the results of a previous open window, CBO estimates that about 50,000 retirees would take advantage of this open window and begin making annual premium payments of about \$1,500 in 2006 and 2007. CBO estimates that, net of annuity payments to their survivors, these new participants would contribute premiums of about \$15 million in 2006, \$190 million over the 2005-2009 period, and \$220 million over the 2005-2014 period.

**Disability Retirement for Cadets.** Section 555 would define as basic pay the compensation received by midshipman and cadets at the military academies and the Coast Guard Academy. It also would allow an officer who was forced to separate during his first eight years of

service because of a condition that began at an academy to be eligible for disability retirement or separation pay. Under current law, a disability that can be traced to academy training is considered a pre-existing condition. During the first eight years of military service, a disability must have been incurred or aggravated by military service for a member to be eligible for disability benefits. CBO estimates that enacting section 555 would result in several additional disability retirements each year at a cost of about \$2 million over the 2005-2014 period.

This change also would entitle cadets and midshipmen to disability retirement or separation pay if they were to become disabled in the line of duty during their time at the academies. According to DoD and the Coast Guard, less than 10 academy students separate each year for disability. However, their compensation is such that their disability retirement annuities would be fully offset by the VA disability compensation they are already entitled to receive. Health care for Coast Guard retirees is considered direct spending. CBO estimates that about five midshipmen and Coast Guard Officers would receive disability retirements each year resulting in medical care costs equaling about \$2 million dollars over the 2005-2014 period. In total, CBO estimates that this section would increase direct spending by \$1 million over the 2005-2009 period and by \$4 million over the 2005-2014 period.

**Early Separation of Mobilized Reservists.** Under current law, reservists called to duty for more than 30 days are eligible for separation benefits or disability retirement, even when they are immediately found to be unfit for duty due to pre-existing medical conditions. Over the last two years, 200 to 300 reservists have received temporary or permanent disability retirements under these conditions. Section 523 would re-classify such individuals as having been called to duty for less than 30 days, making them ineligible to receive disability retirement benefits. Section 703 of this bill would allow the services to perform medical screening on reservists up to 90 days before they report for active duty. Based on information from DoD, CBO believes the services will use this authority to screen out most of those who are unfit for duty before they are activated. However, pre-screening is unlikely to cover 100 percent of those reporting for duty, and those who are pre-screened could be injured or become ill between the time of the screening and their report date. Section 523 would allow the services to separate these remaining individuals with pre-existing conditions without retirement benefits.

CBO estimates that enacting section 523 would reduce the number of disability retirements by about 20 a year over the next several years and that the number will decline as the need for reservists on active duty declines in the future based on CBO's projections of the size of the future mobilized force. Based on the current level of disability retirement benefits and assuming cost-of-living increases and payroll increases, CBO estimates this section would

decrease retirement outlays by less than \$500,000 in 2005, \$4 million over the 2005-2009 period, and \$11 million over the 2005-2014 period.

**Other Provisions.** The following provisions would have an insignificant budgetary impact on direct spending:

- Section 351 would extend through 2008 a program that allows government-owned and operated arsenals to sign contracts with private companies for the use of excess plant space and equipment. The net budgetary impact of enacting this section would be insignificant, since the arsenals would also be allowed to spend whatever proceeds they collect.
- Sections 503 and 504 would allow certain senior officers to remain on active duty longer and others to retire with less time in grade. CBO expects the costs and benefits of these adjustments would offset each other, thus having an insignificant impact on direct spending.
- Section 512 would clarify that reservists within two years of becoming eligible for a reserve retirement are not entitled to remain on active duty for those two years. The few individuals who would be affected by enacting this provision would probably retire with a somewhat smaller annuity, resulting in a slight decrease in retirement outlays.
- Section 1003 would allow DoD to charge and retain fees for the use of trademarks. CBO estimates the net impact of the collection and expenditure of these fees would be insignificant.
- Section 1004 would allow DoD to waive the collection of debts when it determines that the cost of recovery exceeds the amount recoverable. Based on information from DoD, CBO estimates the amount of receipts forgone by exercising this authority would be insignificant.
- Section 1011 would allow the Navy to award contracts to dismantle ships based on the cost for performing the work net of the anticipated value of the scrap and reusable equipment. This section also would allow the contractors to retain the proceeds from the sale of such scrap and reusable equipment. Under current law, the Navy has the authority to award contracts for disposing of decommissioned ships. In 1999, the Navy initiated a pilot program that competitively awarded vessel scrapping work to four private companies. Under that approach, the contractor is responsible for finding a buyer for the scrap metal, but proceeds from the sale go to the Navy. CBO estimates

that enacting section 1011 would have no effect on direct spending because it would neither increase or decrease receipts to the federal government since this provision would simply allow the Navy to receive credit for the expected value of the scrap in advance of its actual sale.

### **Asset Sales**

Section 3302 would increase by 50,000 short tons the restrictions for fiscal year 2005 on manganese ferro alloy sales from the National Defense Stockpile contained in the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107-107). Based on information provided by the National Defense Stockpile Office, CBO estimates that there would be sufficient quantities of manganese ferro alloy in the stockpile to achieve those additional sales in 2005. CBO estimates that DoD would be able to expedite those sales without affecting current market prices, resulting in \$8 million of additional receipts in 2005, but no net budgetary impact over the 2005-2014 period because the provision would only accelerate planned sales and would not increase total sales over the period.

Section 3303 would increase by \$100 million the targets contained in the National Defense Authorization Act for Fiscal Year 1999 (Public Law 105-261, later revised by Public Laws 106-398 and 107-107) for sales from the National Defense Stockpile through 2011. CBO estimates that there will be sufficient quantities of materials in the stockpile to achieve \$15 million in additional receipts in 2005 and \$100 million in additional receipts over the 2005-2009 period.

### **INTERGOVERNMENTAL AND PRIVATE-SECTOR IMPACT**

This bill contains both intergovernmental and private-sector mandates as defined in UMRA but CBO estimates that the annual cost of those mandates to state, local, and tribal governments would be insignificant and well below the threshold established for intergovernmental mandates and would be unlikely to exceed the thresholds for private-sectors mandates (\$60 million and \$120 million in 2004, respectively, adjusted annually for inflation).

### **Increasing the End Strength of the Armed Services**

Sections 401, 1531, and 1532 would increase the costs of complying with existing intergovernmental and private-sector mandates, as defined in UMRA, by increasing the

number of active-duty servicemembers. Those additional servicemembers would be eligible for protection under the Soldiers and Sailors Civil Relief Act (SSCRA) including the right to maintain a single state of residence for purposes of state and local personal income taxes and the right to request a deferral in the payment of certain state and local taxes and fees. It also requires creditors to reduce the interest rate on servicemembers' obligations to 6 percent when such obligations predate active-duty service and allows courts to temporarily stay certain civil proceedings, such as evictions, foreclosures, and repossessions. Extending these existing protections would constitute intergovernmental and private-sector mandates and could result in additional lost revenues to government and private-sector entities.

The number of active duty servicemembers covered by SSCRA would increase by less than 1 percent in fiscal years 2005 through 2007. Based on information from the Federation of Tax Administrators, CBO expects that relatively few of these servicemembers would take advantage of the deferrals in certain state and local tax payments; the lost revenues to those governments would be insignificant.

CBO cannot determine precisely the increase in costs of the existing private-sector mandates because utilization of the provisions of the SSCRA would depend on how often these soldiers are deployed and how long they are deployed, which rests on uncertain policy decisions.

### **Preemptions of State Authority**

This bill contains two preemptions of state and local authority. Section 573 would prohibit state and local governments from collecting a tax or service fee on the health benefits of certain defense employees. Benefits provided by the Non-Appropriated Fund Health Benefits Program are currently not included in the existing prohibition on such taxes and fees for other defense programs. New York State is the only state that currently charges a service fee on those benefits. Under the New York State Health Reform Act, the state collects an assessment based on the number of residence covered by each health plan that resides in the state. According to government sources, the losses to the state would total less than \$50,000 annually.

Section 573 would preempt the application of state-licensing requirements for lawyers practicing within a certain state. It would allow for any judge advocate or civilian attorney that is authorized to provide military legal assistance to provide that assistance in any jurisdiction, notwithstanding any law regarding the licensure of attorneys.

CBO estimates that the annual cost of those preemptions would be insignificant.

## **Restrictions on Exports**

Title XIV would impose mandates on certain private-sector entities by removing license exemptions for some exporters and requiring new conditions for other exporters to obtain export licenses. The direct cost of those mandates would be the additional costs incurred to obtain the required export licenses.

Section 1402 and 1403 would prohibit the President from creating certain regulatory exemptions and waivers for existing export license requirements under the Arms Export Control Act. Without the existing exemptions or waivers, exporters of certain items would be required to obtain a license in order to export their items.

Section 1405 also would require exporters of dual-use goods or technologies to have a foreign person or foreign country receiving such items agree not to transfer title or possession of those goods or technologies. This new requirement would make obtaining a license more difficult for such an exporter.

## **Other Intergovernmental and Private-Sector Impacts**

Section 595 would require public and private colleges and universities to comply with new requirements to remain eligible for certain funding programs. Those changes would be new conditions for receiving federal aid and any costs incurred by those colleges and universities would be voluntary.

State, local, and tribal governments would benefit from other provisions in this bill. Section 529 would authorize the Secretary of Defense to provide funding to states for certain National Guard activities for national security. Section 595 would authorize the appropriation of \$50 million in fiscal year 2005 for payment to state and local schools with dependents of defense personnel. Finally, the bill would convey several pieces of land to state and local governments.

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